

### **REMARKS**

Applicant has included a complete listing of the current claims pending in this application. Claims 25-29 are pending in the application.

This amendment contains no new matter. Entry of this amendment is respectfully requested.

#### ***Election/Restrictions***

The Examiner requested that the Applicant elect a single disclosed species. In a telephone conversation with the Examiner on January 3, 2005, the undersigned Charles R. Cypher made a provision election of group II, claims 25-29 without traverse. Applicant hereby affirms the election of group II, claims 25-29 without traverse and has enclosed herewith a complete listing of the current claims pending in this application.

#### ***Information Disclosure Statement***

Applicant thanks the Examiner for pointing out that the listing of references in the specification is not a proper disclosure statement and that 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office.

#### ***Specification***

The Examiner has objected to the abstract of the disclosure because the abstract contained "means" in line 3. Application has amended to abstract to replace "means" with "action." A replacement copy of the abstract is enclosed with markings to show changes is attached hereto.

#### ***Claim Rejections – 35 USC § 102***

The examiner has rejected claims 25, 26, 27, 28 and 29, as being anticipated by the Applicant's own earlier-granted patent: US Patent 6,273,316 (Losada '316).

Applicant notes that claims 25 and 28 are independent claims, with claims 26 and 27 depending from claim 25, and claim 29 depends from claim 28.

First, with respect to claim 25, the examiner argues that the track (316) of Losada '316 is "shaped to conform with [the] curved plate" of claim 25 of the present invention. See page 4 of the Office Action of January 11, 2005.

Applicant respectfully disagrees with the examiner. Claim 25 calls for the track to be "shaped to conform with the curved shape of the plate (emphasis added)".

While it is true that the track 316 of Losada '316 is designed to accommodate the angled portion (unnumbered) of the angled fastener 318 of Losada. "Track 316 has an opening 317 for permitting the angled portion for the fastener 318 to extend therefrom." Losada '316, column 5, line 10. And as shown in Figure 11A of Losada '316, unnumbered portions of the track are set at an obtuse angle around opening 317 to the flat bottom of the track 316. This angling of the track body also accommodates the angled portion (unnumbered) of the angled fastener 318 of Losada '316.

However, these structures — the provision of the opening 317 and angling portions of the track 316 — do not accommodate a "curved shape". The track 316 of Losada '316 does not appear to in any way "conform with the curved shape of the plate" as called for in claim 25.

In contrast to the angled tracks shown in Losada '316 to carry fastener assemblies, Figures 6 and 8 of the present invention shows a track 110 that is "shaped to conform with the curved shape of the plate" as called for in the claim.

Applicant respectfully requests that the rejection of claim 25 be removed, and the rejections of claim 26 and 27 also be removed as they incorporate the limitations of claim 25.

Furthermore, with respect to claim 26, the examiner argues that the plate of Losada '316 has a groove as described in claim 26.

First, Applicant would like to note that the present application incorporates by reference both the Applicant's own United States Patent Application 10/043,669 and the patent cited by the examiner — Losada '316. See paragraphs 7 and 5 of the present application.

In Losada '316, the structure(channel) the examiner describes as a "groove" — "see channel adjacent slot 360" (Examiner's Office Action page 4) — is described as a "channel". See column 3, line 45 and column 5, line 3.

In United States Patent Application 10/043,669, the structure (channel) the examiner describes as a "groove" is described as a "raised central portion". See page 13 of the application as filed.

In the present invention, as shown in figures 6, 7, 8 and 9 and as described at paragraph 48, the structure that is part of the plate 24, 124, or 324 of fastener assembly 20, 120 or 320 that would correspond to the structure identified by the examiner is described as making the plate "curved or raised or hav[ing] other shapes".

Since all of these labels for the structure are part of the present application, Applicant must respectfully disagree with the examiner.

If Applicant were to rely on the disclosure of Losada '316, the element identified by the examiner would, in fact, be identified in the present application as the "channel", not a groove. Were Applicant to rely United States Application 10/043,669, then the corresponding portion of the present invention identified by the examiner would be the raised central portion. Therefore, the examiner needs to find a different element in Losada '316 that corresponds to the "groove".

For this additional reason, Applicant respectfully requests that the rejection of claim 26 be removed.

With respect to claim 27, the examiner argues that the plate of Losada '316 has an extending portion as described in claim 27.

While the examiner has not particularly pointed to the structure the examiner considers to be the "extending portion", the examiner has emphasized element 317 of Losada '316: "the track (316) is shaped to conform with the extending portion of the plate (see portion of track 317)".

In Losada '316, which is incorporated into the present invention by reference (see paragraph 5), element 317 is described as follows at column 5, line 10 of Losada '316: "Track 316 has an opening 317 for permitting the angled portion for the fastener 318 to extend therefrom." The opening 317 of Losada '316 accommodates the angled portion (unnumbered) of the angled fastener 318. The angled portion (unnumbered) is further identified by the fact that it has a hole 360, through which a wire is attached to the angled portion. See column 5, line 5 of Losada '316.

In the present invention, as shown in figure 6 and as described at paragraph 44, the fastener assembly 20 is described as "a plate 24 with a nail or stud 25 therein, and a leg 26 attached to the plate."

From the examiner's comments, Applicant assumes that the examiner is calling the angled portion (unnumbered) of Losada '316 the "extending portion" of claim 27, and if this is the case, Applicant must respectfully disagree with the examiner.

As noted above, Losada '316 is incorporated by reference into the present application, and the element identified by the examiner would, in fact, be identified in the present application as the "angled portion", if Applicant were to rely on the disclosure of Losada '316. Were Applicant not to rely on the incorporated materials, then the corresponding portion of the present invention identified by the examiner is the "leg 26", and therefore the examiner needs to find a different element in Losada '316 that corresponds to the "extending portion".

For this additional reason, Applicant respectfully requests that the rejection of claim 26 be removed.

With respect to claim 28, the examiner argues that the fastener assembly has a plate, the plate has a groove, and the fastener feeding track is shaped to contact at least one side of the plate in the groove.

First, Applicant would like to note that in making this rejection, in fact, the examiner argues that Losada '316 teaches a "curved plate"; however, as noted above, with respect to claim 1, Losada '316 actually teaches an "angled fastener 318", and claim 28 does not call for a "curved plate".

Second, Applicant would like to note that claim 28 actually calls for the track to be shaped so as "to contact at least one side of the plate only in the groove". Applicant believes this is an important limitation of claim 28, and the examiner must address this limitation to properly reject claim 28.

For this reason, Applicant respectfully requests that the rejection of claim 28 be withdrawn.

With respect to claim 29, claim 29 calls for the plate to have a "pair of grooves" and for the track to be shaped "to contact at least one side of the plate only at the grooves". Again, Applicant believes this is an important limitation of claim 29, and the examiner must address this limitation to properly reject claim 29.

Applicant respectfully requests that the rejection of claim 29 be removed.

### ***Conclusion***

In view of the above, Applicants submit that the claims remaining in the application are in condition for allowance and allowance of the claims at an early date is solicited.

**PATENT**

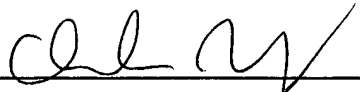
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Please direct any calls in connection with this application to the undersigned at  
(510) 832-4111.

Respectfully submitted,

Date: July 11, 2005

Reg. No.: 41,694  
Tel. No.: 510-832-4111  
Fax No.: 510-832-4115  
Customer No.: 498

  
Charles R. Cypher  
Law Offices of James R. Cypher  
405 14th Street, Suite 1607  
Oakland, CA 94612

Attachments: Replacement Abstract with Markings to Show Changes  
Check No. 11781 for \$1,020